

Cannabis Regulation Bill 2013

EXPLANATORY MEMORANDUM

Purpose of the Bill

The purpose of this Bill is to provide for the regulation of cannabis for medicinal and recreational use. The Bill also provides for the establishment of a Cannabis Regulation Authority and also addresses a range of other matters, including the licensing of the cultivation and sale of cannabis.

Provisions of the Bill

The Bill is divided into 17 Parts and contains one Schedule.

Part 1 – Preliminary and General

Section 1 sets out the short title of the Bill and provides that the Bill may be commenced by the Minister for Justice.

Section 2 defines several key terms which are used throughout the Bill.

Section 3 empowers the Minister for Justice, or with the consent of the Minister - the Cannabis Regulation Authority - to make Regulations under this Act.

Part 2 – Cannabis Regulation Authority

Section 4 of the Bill empowers the Minister to designate the day on which the Cannabis Regulation Authority will be established.

Section 5, along with the Schedule, provides for the establishment of the cannabis Regulation Authority.

Section 6 sets out the functions of the Authority, which shall mainly consist of the development and maintenance of a regulatory framework for the cultivation, sale (wholesale and retail), labelling, advertising and marketing of cannabis and cannabis-infused products.

Section 7 empowers the Minister, after consultation, to confer additional functions on the Authority.

Section 8 states that the Cannabis Regulation Authority may appoint authorised persons for the purpose of conducting inspections and assist in monitoring and ensuring compliance with the requirements contained in this Bill.

Section 9 empowers the Cannabis Regulation Authority to make Regulations in respect of the granting of licenses for the cultivation, wholesale and retail of cannabis or cannabis-infused products.

Section 10 details the requirements concerning the composition of the Board of the Cannabis

Regulation Authority. Additional provisions governing the operations of the Cannabis Regulation Authority are set out in the Schedule.

Part 3 – Cannabis Research Institute

Section 11 provides for the establishment, by the Cannabis Regulation Authority, of the Cannabis Research Institute.

Section 12 specifies what the functions of the Cannabis Research Institute will be, and they include conducting or commissioning research in respect of cannabis, delivering or accrediting education concerning the use of cannabis, as well as other matters.

Section 13 empowers the Minister to appoint a Director to be the head of the Cannabis Research Institute. He or she will be joined by four additional persons to constitute the Institute.

Part 4 – Licence for Cultivation of Cannabis

Section 14 makes it an offence for a person to be engaged in the cultivation of cannabis unless that person holds a cultivation licence.

Section 15 provides that there will be three categories of cultivation licence:

- (a) Licence for the Commercial Cultivation of Cannabis;
- (b) Licence for the Home Cultivation of Cannabis; and
- (c) Licence for the Cannabis Social Club Cultivation of Cannabis.

Section 16 sets out the requirements which must be satisfied before a licence for the Commercial Cultivation of Cannabis may be granted. This section also details other activities which are permissible under the terms of the licence, such as the transport of cannabis to and from the licensed premises.

Section 17 sets out the requirements which must be satisfied before a licence for the Home Cultivation of Cannabis may be granted. The maximum number of plants which may be cultivated under this licence is six plants.

Section 18 sets out the requirements which must be satisfied before a licence for a Cannabis social Club may be granted. This section also details other activities which are permissible under the terms of the licence. The maximum number of cannabis plants which may be cultivated by a Social Club is 300 plants. The Social Club may only sell cannabis grown there to a member of the Club and on a not-for-profit basis.

Part 5 – Licence for Sale of Cannabis

Section 19 makes it an offence for a person to be engaged in the sale of cannabis or cannabis-infused products unless that person is the holder of a current valid wholesale or retail licence.

Section 20 provides that there will be five categories of licence under which the wholesale or retail of cannabis will be permissible, subject to certain restrictions:

- (a) Cannabis Wholesale Licence;
- (b) Cannabis Retail Store Licence;
- (c) Medicinal Cannabis Retail Licence;
- (d) Cannabis Coffee Shop Licence; and
- (e) Cannabis Social Club Licence granted under section 18.

Section 21 provides for the granting of a licence for the sale of cannabis on a wholesale basis.

Section 22 provides for the granting of a licence for the sale of cannabis by a Cannabis Retail Store

which will be precluded from selling other types of products.

Section 23 provides for the granting of a licence for the sale of cannabis by a registered pharmacy.

Section 24 provides for the granting of a licence for the sale of cannabis at Cannabis Coffee Shops.

Part 6 – Transportation of Cannabis

Section 25 makes it an offence for a person to engage in the transport of cannabis unless the person holds a licence which expressly permits the transportation of those goods.

Section 26 states that persons engaged in the transport of cannabis must ensure that all documentary requirements concerning the product are complied with.

Section 27 empowers the Authority to make regulations regarding the transportation of cannabis.

Part 7 – Licensing and Regulations

Section 28 provides for the mandatory disqualification for holding a licence of persons who have been or are convicted of certain serious offences, such as murder, manslaughter, a sexual offence, drug trafficking offence and other offences.

Section 29 states that a licence may not be granted by the Cannabis Regulation Authority unless the applicant produces a tax clearance certificate.

Section 30 provides for the establishment and maintenance of a register of licenses granted under this Bill. The register shall contain seven Divisions as follows:

- (a) Division 1 - Commercial Cultivation of Cannabis;
- (b) Division 2 - Home Cultivation of Cannabis;
- (c) Division 3 - Cannabis Social Club Cultivation of Cannabis;
- (d) Division 4 - Cannabis Wholesale Licence;
- (b) Division 5 - Cannabis Retail Store Licence;
- (c) Division 6 - Medicinal Cannabis Retail Licence; and
- (d) Division 7 - Cannabis Coffee Shop Licence;

Section 31 provides that a cultivation licence, wholesale licence or a retail licence may be granted, and may be granted subject to conditions, at the sole discretion of a judge of the District Court who prior to making his or her decision must have regard to a report which has been prepared by the Cannabis Regulation Authority and must also have regard to evidence or submissions concerning the applicant.

Section 32 empowers the Cannabis regulation Authority to make regulations in relation to the licensing of the cultivation of cannabis, the manufacture of cannabis-infused products, and the sale (wholesale or retail) of cannabis or cannabis-infused products.

Section 33 imposes an obligation on licence holders to maintain monthly records concerning activity and transactions which occur pursuant to the licence.

Section 34 empowers a Judge of the District Court may, upon the application of the Authority, revoke a licence granted under this Act where certain conditions are satisfied. A decision to revoke a licence may be appealed to the Circuit Court.

Section 35 requires the Authority to notify the licence-holder of its intent to apply to court for the purpose of seeking to have the licence revoked.

Part 8 – Restrictions on Products Permissible During Cultivation

Section 36 makes it an offence, during the course of cultivation of cannabis, to use or apply additives, growth agents, insecticides etc. which have been prescribed by the Minister under this section as being prohibited.

Section 37 makes it an offence, during the course of the production of cannabis or cannabis-infused products to use alcohol, nicotine, caffeine or other ingredients or additives which have been prescribed by the Minister as being prohibited.

Part 9 – Restrictions on Sale of Cannabis

Section 38 makes it an offence for the holder of a retail licence to sell cannabis or a cannabis-infused product to a child.

Section 39 imposes a one ounce limit on the quantity of cannabis which may be sold in a transaction in a retail setting.

Section 40 makes it an offence for a licence-holder to allow children to be on a licensed premises at any time.

Section 41 makes it an offence for the holders of certain types of licence to sell cannabis to a member of the public. Therefore, cannabis may only be sold to a member of the public by the holder of a cannabis retail licence.

Section 42 makes it an offence for a person to sell cannabis or cannabis-infused products which contain alcohol, nicotine or caffeine or any other prescribed ingredient or additive. This section also makes it an offence to sell cannabis-infused products which fail to comply with the minimum and maximum permissible amounts of THC which have been prescribed by the Minister.

Part 10 – Residency Requirements on Licensees and Staff

Section 43 requires that in order to be –

- (a) eligible to apply for a licence,
- (b) eligible to be employed by a licence holder, or
- (c) eligible to be members of a Cannabis Social Club,

a person must be legally resident in the State for two years.

Section 44 imposes restrictions on the persons who are eligible to purchase cannabis or cannabis-infused products.

Section 45 makes it an offence to cultivate cannabis in a public place or a place to which members of the public can easily gain access.

Part 11 – Labelling of Cannabis

Section 46 empowers the Authority to make regulations concerning the labeling of cannabis or cannabis-infused products.

Section 47 states that cannabis may only be sold in containers which have plain packaging and therefore must not be branded in any way.

Part 12 – Advertising Cannabis

Section 48 empowers the Authority to make regulations concerning the advertising and marketing, including online advertising and marketing, of cannabis and cannabis-infused products. Section 52

also makes it an offence to advertise or market cannabis or cannabis-infused products at a sporting event.

Section 49 permits the producer or retailer of cannabis or cannabis-infused products to establish a website which provides information and advertising for their products provided the website is primarily intended, and is designed to be accessed by, persons aged 18 years or older. Section 53 also allows for a producer or retailer to engage in marketing campaigns.

Section 50 permits the placing of print media advertising for the sale of cannabis or cannabis-infused products in adult magazines. Section 50 makes it an offence to publish such an advertisement in a newspaper.

Section 51 makes it an offence for a person to commission, publish or broadcast a mass-market advertising or marketing campaign in respect of cannabis or cannabis-infused products that are, on the basis of their content, timing, location or other factors, directed at children.

Section 52 makes it an offence for a person to publish on a sign, label or advertisement concerning cannabis or a cannabis-infused product which is false or misleading in any material respect, or is intended to deceive the consumer.

Part 13 – Offence - Possession

Section 53 makes it an offence for a child to possess any quantity of cannabis or cannabis-infused product and provides for a penalty.

Section 54 makes it an offence for an adult to be in possession of greater than one ounce of cannabis or a cannabis-infused product which contains greater than one ounce of cannabis. Section 54 provides a series of tiered offences with the penalty increasing in-line with the quantity of cannabis found in the person's possession.

Part 14 – Offences and Penalties

Section 55 states that nothing contained in this Act shall be construed as permitting the unlicensed or otherwise unlawful cultivation, sale, import, export, transportation or possession of cannabis or cannabis-infused products.

Section 56 makes it an offence for a person to consume or otherwise be under the influence of cannabis on premises which has been prescribed by the Minister.

Section 57 provides for two different levels of offences for the breach of the requirements which are imposed under the Bill. A breach of the sections which are identified in subsection (1) will give rise to a fine of €2,500 or three months imprisonment on summary conviction or a fine of €250,000 or imprisonment for 5 years following conviction on indictment. A breach of the sections which are identified in subsection (2) will give rise to a fine of €5,000 or twelve months imprisonment on summary conviction or a fine of €500,000 or imprisonment for 10 years following conviction on indictment. Section 61 also provides that proceedings for an offence may be brought and prosecuted summarily by the Authority, or by a member of the Garda Síochána.

Section 58 is a standard provision which relates to the commission of an offence by a body corporate.

Part 15 – Ringfencing and Reporting of Revenue

Section 59 provides that the fees set by the Authority under this Act in respect of the licensing of the cultivation, sale and transport of cannabis shall accrue to the Authority.

Section 60 provides that all tax revenue which is generated from the cultivation and sale of cannabis or cannabis-infused products shall be used exclusively for funding drug addiction services, medical research concerning the use of cannabis, and juvenile education courses on drug abuse.

Section 61 requires that the Revenue Commissioners submit a report to the Authority and also to the Minister for Finance setting out the amount of revenue generated from the sale of cannabis and cannabis-infused products, and the sale of medicinal-use cannabis.

Section 62 requires that the Authority submit a report to the Minister for Finance setting out the amount of revenue generated from licensing the cultivation of cannabis, and licensing the sale of cannabis and cannabis-infused products.

Section 63 provides that the Minister for Justice along with the Minister for Finance shall examine the means to be adopted for the imposition of excise and other taxes upon the commercial cultivation and retail of cannabis and cannabis-infused products.

Part 16 – Miscellaneous

Section 64 requires the Authority in conjunction with the Minister for the Environment, and also the Minister for Health develop a mechanism to track, measure, and properly destroy cannabis and cannabis-infused products that cannot be legally sold, and cannabis waste material.

Section 65 requires the Minister for Agriculture to submit to the Authority and also the Minister for Justice a report which examines the feasibility of the safe regulation and controlled use of hemp.

Section 66 requires the Minister, on an annual basis, to publish a review of the operation of this Act and any instruments made under it.

Part 17 – Amendment of Existing Enactments

Section 67 effects a number of amendments to the Misuse of Drugs Act 1977 for the purpose of decriminalising cannabis use.

Section 68 effects amendments to two statutory instruments so as to reflect the proposals contained in this Bill to legalise the possession and use of cannabis.

Section 69 amends the Road Traffic Act 2010 so as to make it an offence to drive whilst under the influence of cannabis.

Section 70 amends the Road Traffic Act 2010 so as to make it an offence to attempt to drive whilst under the influence of cannabis.

Section 71 seeks to amend the Public Health (Tobacco) Act 2002 so as to extend the workplace smoking ban so as to include cannabis smoke. However, the smoking of cannabis in a Cannabis Social Club or Cannabis Coffee Shop would not be so prohibited.

Cannabis Regulation Bill 2013

BILL

entitled

AN ACT TO PROVIDE FOR THE REGULATION OF CANNABIS FOR MEDICINAL AND RECREATIONAL USE AND FOR THAT PURPOSE TO ESTABLISH THE CANNABIS REGULATION AUTHORITY; TO PROVIDE FOR THE LICENSING OF THE CULTIVATION AND SALE OF CANNABIS; TO PROVIDE FOR OFFENCES; AND TO PROVIDE FOR RELATED MATTERS.

BE IT THEREFORE ENACTED BY THE OIREACHTAS AS FOLLOWS:

PART 1

PRELIMINARY AND GENERAL

Short title and commencement.

1. —(1) This Act may be cited as the Cannabis Regulation Bill 2013.

(2) This Act shall come into operation on such day or days as the Minister may appoint by order or orders either generally or with reference to any particular purpose or provision and different days may be so appointed for different purposes or provisions.

Interpretation.

2. —(1) In this Act -

“Authority” means Cannabis Regulation Authority established under section 5;

“Board” means Board of the Authority;

“cannabis” means a plant (*Cannabis sativa*, family Cannabaceae) which is used to produce

hemp fiber and which is used as a mildly psychotropic drug;

“cannabis-infused product” means a product which contains any quantity of cannabis;

“CBD” means cannabidiol;

“chief executive” means chief executive officer of the Authority;

“child” means a person under the age of 18 years;

“commercial cultivation of cannabis” means the cultivation of seven or more cannabis plants pursuant to a licence granted by the Authority under section 16;

“establishment day” means the day appointed by the Minister under section 4 to be the establishment day for the purposes of this Act;

“hemp” means a derivative of the plant cannabis containing a very small amount of Delta-9 THC with Industrial applications;

“home cultivation” means the cultivation of not more than six cannabis plants at a residential premises pursuant to a licence which has been granted under section 17;

“institute” means the Cannabis Research Institute established under Part 3;

“licensed premises” means a premises in respect of which a licence has been granted by the Authority under Part 4 or Part 5;

“licence holder” means the holder of a licence which has been granted under Part 4 or Part 5;

“Minister” means Minister for Justice;

“THC” means tetrahydrocannabinol.

(2) In this Act “good standing with the law” refers a person who is of good standing with the law and who is not precluded under the terms of section 28. For the avoidance of doubt a conviction in respect of a summary offence the penalty for which did not result in a term of imprisonment being served shall not be regarded as negating a person’s otherwise good standing with the law.

Regulations.

3.—(1) The Minister or, subject to the consent of the Minister, the Authority, may make regulations prescribing any matter which is referred to in this Act as prescribed or to be prescribed or in relation to any matter referred to in this Act as the subject of regulations or for the purposes of enabling any provision of this Act to have full effect.

(2) Every regulation or order made by the Minister or the Authority shall be laid before each House of the Oireachtas as soon as practicable after they are made and, if a resolution

annulling the regulation, order or rules is passed by either House within the next subsequent 21 days on which that House has sat after the regulation, order or rules are laid before it, the regulation, order or rules shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

(3) Regulations made under this Act may—

- (a) include such consequential, incidental, transitional or supplementary provisions as may be considered by the Minister or the Authority, as the case may be, to be necessary or appropriate for the purposes of this Act, and
- (b) apply, either generally or by reference, to a specified class or classes of persons or category or categories of licensees or to any other matter as may be considered by the Minister or the Authority to be appropriate.

PART 2

CANNABIS REGULATION AUTHORITY

Establishment day.

4.—The Minister may by order appoint a day to be the establishment day for the purposes of this Act.

Establishment of Cannabis Cultivation Authority.

5.—(1) There stands established on the establishment day a body to be known, in the Irish language, as an tÚdarás Cannabais Rialála or, in the English language, as the Cannabis Regulation Authority, and in this Act referred to as the Authority.

(2) The Authority shall be a body corporate with perpetual succession and an official seal and power to sue and be sued in its corporate name and, with the consent of the Minister with the agreement of the Minister for Finance, to acquire, hold and dispose of land or an interest in land and to acquire, hold and dispose of any other property.

(3) The Schedule shall apply to the Authority.

Functions of Authority.

6.—(1) The principal function of the Authority is the development and maintenance of a regulatory framework for the cultivation, sale (wholesale and retail), labelling, advertising and marketing of cannabis and cannabis-infused products.

(2) In exercising its function, the Authority shall seek to achieve the following objectives—

- (a) to regulate the cultivation and sale of cannabis for use by adults,
- (b) to pursue the development of a grower and customer orientated licensing system and regulatory code for the users of cannabis,
- (c) to oversee the development of a professional, safe, and well-regulated cannabis cultivation and retail sector,
- (d) to have due regard to the needs of growers and cannabis users,

- (e) to promote measures to facilitate increased understanding and awareness of the use of cannabis, and
- (f) to facilitate the use of cannabis for medicinal purposes.

(3) The exercise of functions of the Authority under this Act may be carried out by or through any member of the staff of the Authority or a person authorised by the Authority, as the Authority deems appropriate.

Additional functions.

7.—(1) The Minister may, after consultation with the Authority, the Minister for Health and any other Minister of the Government who in the opinion of the Minister is concerned, by order—

(a) confer on the Authority, such additional functions connected with the functions for the time being of the Authority or the services or activities that the Authority is authorised to provide or carry on, and

(b) make such provision as he or she considers necessary or expedient in relation to matters ancillary to or arising out of the conferral on the Authority of functions under this section or the performance by the Authority of functions so conferred.

(2) Every order made by the Minister under this section shall be laid before each House of the Oireachtas as soon as may be after it is made and shall not take effect until a resolution affirming the order is passed by either such House.

Authorised persons.

8.— (1) The Authority may appoint in writing such and so many of his or her officers to be authorised persons for the purposes of all or any of the provisions of this Act and such appointment may be specified to be for a fixed period.

(2) Every authorised person appointed under this section shall be furnished with a warrant of appointment and shall, when exercising any power conferred on him or her by this section, if requested by a person affected, produce the warrant of appointment or a copy of it to that person.

(3) An appointment under this section as an authorised person shall cease—

- (a) if the Authority revokes the appointment,
- (b) if the appointment is for a fixed period, on the expiry of that period, or
- (c) if the person appointed ceases to be an officer of the Authority.

(4) An authorised person may, for the purpose of obtaining any information which may be required in relation to a matter under investigation under this Act —

(a) at all reasonable times enter any premises, place, on, at or in which there are grounds to believe that any trade or business or any activity which is or may be subject to a licensing requirement under this Act is being, or has been, carried on, or that records relating to such

trade, business or activity are kept, and search and inspect the premises, place or vehicle and any records that are on, at or in such premises, place or vehicle,

(b) secure for later inspection any, or any part of any, premises or place or any vehicle on, at or in which such records are kept or there are reasonable grounds for believing that such records are kept,

(c) require any person who carries on such trade, business or activity or any person employed in respect of such trade, business or activity to produce to him or her such records and where such records are kept in a non-legible form to reproduce them in a legible form or to give to him or her any information as the authorised officer may reasonably require in relation to any entries in such records,

(d) inspect and take copies of or extracts from any such records, files, papers or electronic information system on, at or in the premises, place or vehicle, including, in the case of information in a non-legible form, copies of or extracts from such information in a permanent legible form,

(e) remove and retain such records for such periods as may be reasonable for future examination, subject to a warrant being issued for that purpose by the District Court,

(f) require any such person to give to the authorised person any information which the authorised officer may reasonably require in respect of such trade, business or activity or in respect of the persons carrying on such trade, business or activity or employed in connection with such trade, business or activity,

(g) require any such person to give to the authorised person any other information which the authorised person may reasonably require in respect of such trade, business or activity,

(h) require any person by or on whose behalf data equipment is or has been used or any person having charge of, or otherwise concerned with the operation of the data equipment or any associated apparatus or material, to afford the authorised person all reasonable assistance in relation to it and assist in the retrieval of information connected with the operation of such data equipment, apparatus or material,

(i) summon, at any reasonable time, any other person employed in connection with such trade, business or activity to give to the authorised person any information which the authorised person may reasonably require in relation to such trade, business or activity and to produce to the authorised officer any records which are in the control of that other person,

(j) have photographs taken of any thing on, at or in the premises, place or vehicle and remove the photographs from the place, and

(k) inspect any vehicle relating to such trade, business or activity.

(5) An authorised person shall not, other than with the consent of the occupier, enter a private dwelling unless he or she has obtained a warrant from the District Court under *subsection (8)* authorising such entry.

(6) Where an authorised person, in the exercise of his or her powers under this section, is prevented from entering any premises, place or vehicle, an application may be made for a warrant under *subsection (8)* authorising such entry.

(7) An authorised person appointed under this section, when exercising any powers conferred on an authorised person by this Act, may be accompanied by such other authorised persons or members of the Garda Síochána or both as he or she considers necessary.

(8) Without prejudice to the powers conferred on an authorised person by or under any provision of this section, if a judge of the District Court is satisfied on the sworn information of

an authorised person that there are reasonable grounds for suspecting that there is information required by an authorised person under this section held on or at any, or any part of any, premises or place or in any vehicle, the judge may issue a warrant authorising an authorised person, accompanied by such other authorised persons and members of the Garda Síochána as provided for in *subsection (7)*, at any time or times within one month from the date of issue of the warrant, on production if so requested of the warrant, to enter the premises, place or vehicle, if need be by reasonable force, and exercise all or any of the powers conferred on an authorised person under this section.

(9) A person shall comply with any request or requirement of an authorised person under this Act.

(10) A person who—

- (a) obstructs or impedes an authorised person in the exercise of a power under this section,
- (b) without reasonable excuse, does not comply with a requirement under this section, or
- (c) in purported compliance with such a requirement knowingly or recklessly gives information that is false or misleading in a material respect,

is guilty of an offence.

Regulations to be made by Authority.

9.—(1) The Authority with the consent of the Minister shall make regulations providing for the procedure relating to the making of an application for a licence or renewal of a licence under Part 4 or Part 5 and the grant or renewal of a licence on foot of such an application.

(2) Without prejudice to the generality of *subsection (1)*, regulations under this section may make provision for all or any of the following:

- (a) the form in which an application for a licence shall be made and the form of a licence;
- (b) the form in which an application for the renewal of a licence shall be made and the form of a licence as renewed;
- (c) the period within which any information or documents, including additional information or documents requested by the Authority relating to the grant or renewal of a licence, shall be furnished to the Authority; and
- (d) the production to the Authority, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or documents previously furnished to the Authority in respect of an application for the grant or renewal of a licence.

(3) The Authority may make regulations providing for the procedures in relation to the submission of a decision for review under section 35 and the carrying out of such a review and, without prejudice to the generality of the foregoing, such regulations may make provision for all or any of the following:

- (a) the form in which such a submission is to be made;
- (b) the furnishing of specified information to the person carrying out the review for the purposes of the review;
- (c) the furnishing of such additional information as that person thinks appropriate for the purposes of the review;
- (d) the period within which any such information, including any additional such information

requested by that person, shall be furnished; and

(e) the production to that person, within a specified period, of such evidence as he or she may reasonably require in order to verify any information or particulars previously furnished to him or her for the purposes of the review.

(4) Regulations under this section may make provision for the making of an application under Part 4 or Part 5 by electronic means (within the meaning of the Electronic Commerce Act 2000).

Membership of Board of Authority and term of office of members.

10.—(1) There shall be a Board of the Authority.

(2) Members of the Board shall be appointed by the Minister.

(3) (a) The Board shall consist of a chairperson and not less than 6 and not more than 11 ordinary members.

(b) The Minister shall, in so far as is practicable, ensure an equitable balance between the numbers of members of the Board who are women and the number of them who are men.

(4) Each member of the Board shall be a person who, in the Minister's opinion, has experience in a field of expertise relevant to the Authority's functions.

(5) A member of the Board shall not be eligible for re-appointment if he or she has served two consecutive terms as a member of the Board.

(6) The Minister, when appointing an ordinary member of the Board, shall fix such member's period of membership which shall not exceed 3 years and, subject to this section, membership shall be on such terms as the Minister determines.

(7) Such number, as decided by the Minister, of the first ordinary members of the Board appointed under *subsection (2)* shall hold office for a period not exceeding 2 years from the date of their appointment as determined by the Minister by lot.

(8) A member of the Board may at any time resign his or her membership by letter addressed to the Minister and the resignation shall take effect from the date of receipt of the letter by the Minister.

(9) A member of the Board shall be paid out of funds at the disposal of the Authority—

(a) such remuneration (if any) as may be fixed from time to time by the Minister with the agreement of the Minister for Finance, and

(b) such amounts in respect of expenses (if any) as the Minister with the agreement of the Minister for Finance may determine.

(10) A member of the Board may at any time be removed from membership of the Board by the Minister if, in the Minister's opinion, the member has become incapable through ill-health of performing

his or her functions, or has committed stated misbehaviour, or his or her removal appears to the Minister to be necessary for the effective performance by the Board of its functions.

(11) (a) If a member of the Board dies, resigns, becomes disqualified or is removed from office, the Minister may appoint a person to be a member of the Board to fill the casual vacancy so occasioned and the person so appointed shall be appointed in the same manner as the member of the Board who occasioned the casual vacancy.

(b) Subject to the other provisions of this section, a person appointed to be a member of the Board by virtue of *paragraph (a)* shall hold office for the remainder of the term of office of the member who occasioned the casual vacancy he or she is appointed to fill and shall be eligible for re-appointment for one further consecutive term as a member of the Board.

(c) The Authority may act notwithstanding a vacancy amongst its members.

(12) A member of the Board shall cease to hold and shall be disqualified from holding office if he or she—

(a) is adjudged bankrupt,

(b) makes a composition or arrangement with creditors,

(c) is sentenced by a court of competent jurisdiction to a term of imprisonment, or

(d) is disqualified or restricted from being a director of any company.

PART 3

CANNABIS RESEARCH INSTITUTE

Establishment of Cannabis Research Institute.

11. —(1) The Authority shall within 12 months of the commencement of this Part, establish a body to be known as the Cannabis Research Institute to perform the functions conferred on it by this section.

(2) (a) The Institute shall stand as a distinct entity independent from that of the Authority.

(b) Notwithstanding paragraph (b), the Institute shall operate on a shared services basis with the Authority.

Functions of Institute.

12. — (1) The Institute shall perform the following functions:

(a) conduct or commission and publish research on matters relating to the —

(i) medicinal use of cannabis,

(ii) recreational use of cannabis and cannabis-infused products,

(iii) safe use of cannabis,

(iv) cultivation of cannabis, and

(v) level of prosecutions involving the illegal cultivation, sale, or possession of cannabis or cannabis-infused products,

including from a domestic or international perspective;

(b) devise, commission, and deliver or accredit the delivery of education concerning the use of cannabis to -

- (i) members of the Gardaí, defence forces, emergency services, and prison service,
- (ii) members of the medical profession,
- (iii) members of the legal profession,
- (iv) teachers, lecturers and persons who work with children, and
- (v) other categories of persons as may be prescribed by the Minister;

(c) encourage employers to review current drug-free workplace policies, including elements of such policies concerning hiring, sanctioning, termination, and drug testing;

(d) devise and, at the request of the Authority, assess standards of knowledge, skill and competence applicable to licensees;

(e) advise the Authority in relation to the appropriate knowledge, education and training and qualifications required for registration under this Act;

(f) to promote public awareness of cannabis use, including the advancement of education relating to the promotion of the safe use of cannabis;

(g) to encourage investment in the development and maintenance of the cannabis sector and to promote innovation in this regard;

(h) co-operate and engage on matters pertaining to its functions with such bodies in other jurisdictions which perform similar functions to the Institute; and

(i) such other functions as may be prescribed by the Minister

(2) In order to assist the Institute in the performance of its functions under this section, Departments of State shall cooperate and where feasible shall collaborate with the Institute. provide assistance to aid the work of the Institute.

Director and members of Institute.

13. — (1) The Minister shall appoint a person with established expertise in education and research in the field of cannabis as the Director of the Institute who shall also serve as a member of the Institute.

(2) The Minister shall appoint four additional persons to be members of the Institute, each of whom shall have knowledge or experience in one or more of the fields relevant to the functions of the Institution.

PART 4

LICENCE FOR CULTIVATION OF CANNABIS

Prohibition on unlicensed cultivation of cannabis.

14.— It shall be an offence for a person to be engaged in the cultivation of cannabis unless that person is the holder of a current valid cultivation licence under this Part pursuant to which he or she is permitted to engage in the cultivation of cannabis on that premises.

Cultivation licences.

15.— The cultivation of cannabis shall only be permissible pursuant to one of the following categories of licenses, provided any conditions attached thereto and all legislative requirements are fully complied with -

- (a) Licence for the Commercial Cultivation of Cannabis;
- (b) Licence for the Home Cultivation of Cannabis; and
- (c) Licence for the Cannabis Social Club Cultivation of Cannabis.

Commercial Cultivation Licence

16.— (1) A licence for the Commercial Cultivation of Cannabis (in this section a “Commercial Cultivation Licence”) may only be granted in respect of -

- (a) a person who will lead the commercial cultivation operations and who -
 - (i) is of good standing with the law, and
 - (ii) holds a prescribed qualification in horticulture or significant practical experience in the commercial cultivation of plants; and
- (b) a premises which is fit for the cultivation of cannabis on a commercial scale.

(2) Where a Commercial Cultivation Licence has been granted under this section, the licence holder may sell quantities of cannabis which are greater than one ounce in any one transaction provided the purchaser holds a licence under sections 21, 22, 23 or 24.

(3) Where a Commercial Cultivation Licence has been granted under this section, the licence holder may engage in the transportation of cannabis to or from the licensed premises, provided that -

- (a) the cannabis has been cultivated at a Commercial Cultivation facility which holds a licence under this section, and
- (b) each consignment is at all times accompanied by documentation in the form prescribed by the Authority.

(4) It shall be an offence for a person to contravene the terms of subsections (2) or (3).

Home Cultivation Licence.

17.— (1) A licence for the Home Cultivation of Cannabis may only be granted in respect of -

- (a) a person who is of good standing with the law, and
- (b) (i) in respect of a residential premises at which a child or vulnerable adult resides, there shall be a self-contained, lockable space which is fit for cultivation within the residential premises; or

(ii) in respect of a other residential premises at which only adults reside, the premises shall be secure and locked.

(2) The maximum number of cannabis plants which may be cultivated at any one time under a licence for the Home Cultivation of Cannabis shall be six.

(3) Cannabis which is harvested pursuant to a licence which is held under this section shall be for personal use of the licence holder only.

(4) Notwithstanding the terms of section 54(1), the holder of a licence which has been granted under this section may be in possession of a quantity of harvested cannabis which is in excess of one ounce provided he or she can establish that the quantity held -

(a) is consistent with quantities normally held by the holder of a licence under this section for personal use, and

(b) had been harvested by him or her in accordance with a licence which had been granted under this section.

(5) It shall be an offence for a person to contravene subsection (2), (3) or (4).

Cannabis Social Club Licence.

18.— (1) A licence for the Cannabis Social Club cultivation and sale of cannabis may only be granted in respect of -

(a) a person who is leading the Cannabis Social Club and who is in good standing with the law, and

(b) a secure, lockable, alarmed and monitored premises which is fit for the cultivation of cannabis.

(2) The maximum number of cannabis plants which may be cultivated pursuant to a licence for the Social Club cultivation of cannabis shall be 300.

(3) (a) The sale, on a not-for-profit basis, by the Cannabis Social Club to its members of cannabis which has been cultivated at the Cannabis Social Club shall be permissible pursuant to a licence granted under this section.

(b) A Cannabis Social Club shall not sell or transfer cannabis to a person who is not a member of the Club.

(4) In this section a 'Cannabis Social Club' means -

(a) a cooperative type organisation with a maximum membership of 50 persons,

(b) which has been established for the purpose of the cultivation of cannabis and the sale of cannabis exclusively to its members on a not-for-profit basis.

(5) The cultivation and sale of cannabis by a Cannabis Social Club be zero-rated for the purpose of value-added tax and shall not otherwise give rise to a tax liability.

(6) It shall be an offence for a person to contravene the terms of subsection (2) or (3)(b).

PART 5

LICENCE FOR SALE OF CANNABIS

Prohibition on unlicensed sale cannabis.

19.— It shall be an offence for a person to be engaged in the sale of cannabis or cannabis-infused products unless that person is the holder of a current valid wholesale or retail licence under this Part pursuant to which he or she is permitted to engage in the sale of cannabis.

Wholesale and retail licenses.

20.— The sale of cannabis shall only be permissible pursuant to one of the following categories of licenses, provided any conditions attached thereto and all legislative requirements are fully complied with -

- (a) Cannabis Wholesale Licence;
- (b) Cannabis Retail Store Licence;
- (c) Medicinal Cannabis Retail Licence;
- (d) Cannabis Coffee Shop Licence; and
- (e) Cannabis Social Club Licence granted under section 18.

Cannabis Wholesale Licence

21.— (1) A licence permitting the acquisition and sale of cannabis or cannabis-infused products on a wholesale basis (in this section a “Cannabis Wholesale Licence”) may only be granted in respect of -

- (a) a wholesale distributor who is of good standing with the law, and
- (b) a premises which is fit for the secure storage and wholesale of cannabis or cannabis-infused products.

(2) Where a Cannabis Wholesale Licence has been granted under this section, the licence holder may sell quantities of cannabis which are greater than one ounce in any one transaction provided the purchaser holds a licence under sections 22, 23 or 24.

(3) Where a Cannabis Wholesale Licence has been granted under this section, the license holder may engage in the transportation of cannabis or cannabis-infused products to or from the licensed premises, provided that each consignment is documented in the manner prescribed by the Authority.

(4) It shall be an offence for a person to contravene the terms of subsection (2) or (3).

Cannabis Retail Store Licence

22.— (1) A licence permitting the sale of cannabis or cannabis-infused products to members of the public (in this section a “Cannabis Retail Store Licence”) may only be granted in respect of -

- (a) a retail store proprietor who is of good standing with the law, and
- (b) a premises which is fit for the sale of cannabis or cannabis-infused products with a floor area which does not exceed the maximum permissible floor area prescribed by the Minister.

(2) Where a Cannabis Retail Store Licence has been granted under this section, non-cannabis products or items, save for cannabis-related accessories, shall not be sold in the store.

(3) Where a Cannabis Retail Store Licence has been granted under this section, the licence holder may purchase quantities of cannabis which are greater than one ounce in any one transaction provided the seller holds a licence under sections 16 or 21.

(4) Where a Cannabis Retail Store Licence has been granted under this section, the license holder may engage in the transportation of cannabis or cannabis-infused products to or from the licensed premises, provided that each consignment is at all times accompanied by documentation in the form prescribed by the Authority.

(5) It shall be an offence for a person to contravene the terms of subsection (2), (3) or (4).

Medicinal Cannabis Retail Licence

23.— (1) A licence permitting the sale of cannabis or cannabis-infused products for medicinal purposes (in this section a “Medicinal Cannabis Retail Licence”) may only be granted in respect of a registered pharmacy.

(2) Where a Medicinal Cannabis Retail Licence has been granted under this section, the primary trade of the business shall be in medicinal products.

(3) Where a Medicinal Cannabis Retail Licence has been granted under this section, the licence holder may purchase quantities of cannabis which are greater than one ounce in any one transaction provided the seller holds a licence under sections 16 or 21.

(4) Where a Medicinal Cannabis Retail Licence has been granted under this section, the license holder may engage in the transportation of cannabis or cannabis-infused products to or from the licensed premises, provided that each consignment is at all times accompanied by documentation in the form prescribed by the Authority.

(5) It shall be an offence for a person to contravene the terms of subsection (2), (3) or (4).

Cannabis Coffee Shop Licence.

24.— (1) A licence permitting the sale of cannabis or cannabis-infused products to members of the public and the consumption of such products on the premises (in this section a “Cannabis Coffee Shop Licence”) may only be granted in respect of -

- (a) a coffee shop proprietor who is of good standing with the law, and
- (b) a premises which is fit for the sale of cannabis or cannabis-infused products and the consumption thereon with a floor area which does not exceed the maximum permissible floor area prescribed by the Minister.

(2) Where a Cannabis Coffee Shop Licence has been granted under this section, cannabis or cannabis-infused products which are available for purchase shall be clearly distinguished from non-cannabis products.

(3) Where a Cannabis Coffee Shop Licence has been granted under this section, the licence holder may purchase quantities of cannabis which are greater than one ounce in any one transaction provided the seller holds a licence under sections 16 or 21.

(4) Where a Cannabis Coffee Shop Licence has been granted under this section, the license holder may engage in the transportation of cannabis or cannabis-infused products to or from the licensed premises, provided that each consignment is at all times accompanied by documentation in the form prescribed by the Authority.

(5) It shall be an offence for a person to contravene the terms of subsection (2), (3) or (4).

PART 6

TRANSPORTATION OF CANNABIS

Prohibition on unlicensed transportation of cannabis.

25.— It shall be an offence for a person to be engaged in the transportation of cannabis or cannabis-infused products unless -

- (a) that person is the holder of a current valid cannabis cultivation, wholesale or retail licence which has been granted under Part 4 or Part 5, and
- (b) pursuant to which the transportation of cannabis or cannabis-infused products is expressly permitted.

Requirements applicable to transportation.

26.— (1) A person who engages in the transportation of cannabis or cannabis-infused

products pursuant to a licence granted under this Act, shall ensure that the documentary requirements which have been prescribed by the Minister in respect of that activity are complied with.

(2) It shall be an offence for a person to contravene the terms of subsection (1).

Regulations governing transportation of cannabis.

27.— (1) The Authority with the consent of the Minister for Transport, Tourism and Sport shall make regulations relating to the transportation of cannabis.

(2) It shall be an offence for a person to contravene regulations made under subsection (1).

PART 7

LICENSING AND REGULATIONS

Mandatory disqualification for holding licence on conviction of certain offences.

28.—(1) Where a person being the applicant for or the holder of a licence is convicted of any of the following offences, namely—

(a) murder,

(b) manslaughter,

(c) an offence—

(i) under the Non-Fatal Offences against the Person Act 1997 (other than section 2 or 3), or

(ii) on—

(I) conviction on indictment, under section 2 or 3 of that Act, or

(II) summary conviction, under section 2 or 3 of that Act where the individual assaulted was at the time of the offence or at a material time before it a fare paying passenger in a small public service vehicle being driven by the person, other than where the individual assaulted contributed, in the opinion of the Authority, in a material way to the assault or is convicted of an offence under either of those sections for assaulting the person,

(d) a sexual offence (within the meaning of section 3 of the Sex Offenders Act 2001),

(e) a drug trafficking offence (within the meaning of section 3 of the Criminal Justice Act 1994),

(f) an offence relating to money laundering under Part IV of the Criminal Justice Act 1994,

(g) an offence under the Criminal Justice (Theft and Fraud Offences) Act 2001,

(h) an offence under section 2 of the Illegal Immigrants (Trafficking) Act 2000, or

(i) an offence under the Firearms and Offensive Weapons Acts 1925 to 1990, the person—

(i) in the case of being convicted summarily where a fine only is imposed by the Court, is disqualified for the period of 12 months,

(ii) in any other case, subject to *subsection (2)*,

is disqualified, for holding a licence and, accordingly, where the person is the holder of a

licence, the licence stands revoked.

(2) Subject to *subsection (3)*, after the period of—

(a) 2 years in the case of being convicted summarily, where a term of imprisonment is imposed by the Court, with or without a fine,

(b) 5 years in the case of being convicted on indictment, where a fine or a term of imprisonment of less than 10 years or both is imposed by the Court, or

(c) 10 years in the case of being convicted on indictment, where a term of imprisonment of 10 or more years is imposed by the Court with or without a fine, of an offence referred to in *subsection (1)*, the person may apply—

(i) where the offence has been tried summarily, to the judge of the District Court in whose District Court District, or

(ii) where the offence has been tried on indictment, to the judge of the Circuit Court in whose Circuit, the person resides, to be allowed to apply for a licence under such terms or conditions as the Court may direct.

(3) Where a person has been convicted of an offence referred to in *subsection (1)* before the commencement of that subsection, and the relevant period referred to in *subsection (2)* for making an application under *subsection (2)* has elapsed before the commencement of *subsections (1) and (2)*, he or she may make an application under *subsection (2)* before the commencement of that subsection.

(4) A person shall not make an application under *subsection (2)* where he or she is serving a term of imprisonment.

(5) Where a person being the applicant for or the holder of a licence under this Act is convicted, after the commencement of this subsection, of any offence which resulted in the imposition of a term of imprisonment, the person is disqualified for holding a licence under this Act for the period of -

(i) in the case of a conviction on indictment, the period of 5 years, or

(ii) in the case of a conviction in respect of a summary offence, the period of 2 years, following the end of the first-mentioned period, and, accordingly, where the person is the holder of a licence under this Act, the licence stands revoked.

(6) A person who is disqualified under this section for holding a licence and who—

(a) engages or purports to engage in an activity which is required to be licensed under this Act, or

(b) operates or controls any business or activity which is required to be licensed under this Act,

is guilty of an offence.

(7) Nothing in this section shall disqualify a person from -

(a) being granted a licence under this Act, or

(b) continuing to hold a licence granted under this Act,

solely on the ground that he or she has been convicted of being in possession of cannabis.

Tax clearance certificate.

29.—(1) A licence shall not be granted by the Authority unless the applicant produces to the licensing authority, a tax clearance certificate issued under section 1095 (inserted by section 127 of the Finance Act 2002) of the Taxes Consolidation Act 1997.

(2) The Authority may, with the consent of the Minister for Finance, make regulations for the purpose of specifying particular conditions or requirements for applicants for licences in relation to taxation obligations.

Register of licenses.

30.— (1) The Authority shall establish and maintain a register of licenses granted under this Act and such register shall contain the following divisions –

- (a) Division 1 - Commercial Cultivation of Cannabis;
- (b) Division 2 - Home Cultivation of Cannabis;
- (c) Division 3 - Cannabis Social Club Cultivation of Cannabis;
- (d) Division 4 - Cannabis Wholesale Licence;
- (b) Division 5 - Cannabis Retail Store Licence;
- (c) Division 6 - Medicinal Cannabis Retail Licence; and
- (d) Division 7 - Cannabis Coffee Shop Licence;

(2) Each division of the register shall include the following details of the licensees –

- (a) name and address,
- (b) licence number,
- (c) date of grant of licence and date of expiry of licence,
- (c) details of the premises at which the activity is licensed to occur,
- (d) where relevant, details of qualifications,
- (e) the levels of cultivation or sale (retail or wholesale) permissible under the licence, and
- (f) the date of first inclusion in the register.

(3) The Authority may publish, including on the internet, extracts of the register.

Licensing system for the cultivation or retail of cannabis.

31.— (1) A cultivation licence, wholesale licence or a retail licence may be granted, and may be granted subject to conditions, at the sole discretion of a judge of the District Court who prior to making his or her decision shall have regard to -

- (a) the licensing application report which has been prepared by the Cannabis Regulation Authority under subsection (2),
- (b) evidence or submissions concerning the fitness of the applicant,
- (c) evidence or submissions concerning the suitability of the premises, and
- (d) any other matters which he or she considers to be of relevance to the application.

(2) Where a completed application for a cultivation licence or a retail licence, along with all of the required supporting documents has been received by the Authority, it shall -

- (a) review the adequacy of the information provided,
- (b) interview the applicant,
- (c) conduct an inspection of the premises, and
- (d) prepare a report for submission to the District Court in which it recommends the acceptance, acceptance subject to conditions, or rejection of the licensing application on stated grounds.

Regulations governing cultivation licenses and retail licenses.

32.—(1) The Authority may make regulations in relation to the licensing of -

- (a) the cultivation of cannabis, and
- (b) the sale (wholesale or retail) of cannabis or cannabis-infused products,

which may also provide for control and operation of such activities and the standards to be applied to such licensees and their premises.

(2) Regulations under this section may, in particular in respect of the cultivation of cannabis make provision in relation to—

- (a) the scale of the cultivation operations permissible,
- (b) the number of plants, and stage of growth of plants, which may be cultivated at any one time,
- (c) the additives, fertilisers, insecticides, pesticides and fungicides which may be used or which are prohibited during the course of cultivation,
- (d) the operation of a cannabis cultivation premises, and
- (e) the maintenance of records in relation to the operation of the cannabis cultivation premises, including the number of plants on the premises, harvested stock on-hand, and details of plants transferred or sold.

(3) Regulations under this section may, in particular in respect of the the sale of cannabis or cannabis-infused products make provision in relation to—

- (a) the scale of the retail operations permissible,
- (b) the types or classes of products which may be presented for sale,
- (c) the requirements concerning the verification of the age of a purchaser,
- (d) the operation of a retail premises, including opening hours, and
- (f) the maintenance of records in relation to the operation of the retail premises, including details of the stock on-hand and details of products sold.

(4) Regulations under this section may, in particular and without prejudice to the generality of *subsection (1)* make provision in relation to—

- (a) licences in respect of the operators of premises for the cultivation or sale of cannabis,
- (b) the categories of premises in respect of which licences may be granted,
- (c) the floor area of such premises in respect of which licences may be granted,
- (d) applications for or matters relating to licences including the following—
 - (i) the terms or conditions relating to the grant of a licence,
 - (ii) the manner and form of an application for the grant of a licence,
 - (iii) the fees to be paid in respect of the grant of a licence or signs relating to a licence,
 - (iv) the form and content of a licence,

- (v) the inspection and certification of a premises that is the subject of an application for a licence,
- (vi) the insurance of the premises,
- (vii) the period of validity of a licence,
- (viii) the revocation and suspension of a licence,
- (e) the inspection of the cannabis cultivation premises, and
- (f) powers of authorised persons in addition to those under section 8.

(5) In making regulations under this section, the Authority may establish requirements and conditions for the purpose of the assessment of applicants for the grant of licences, including requirements and conditions in respect of—

- (a) the fitness of a person to hold a licence having regard to an assessment carried out by the Garda Vetting Bureau on behalf of the Authority,
- (b) the fitness of the premises,
- (c) the knowledge of and ability of the person to establish and sustain the licensed activity, and
- (d) knowledge of the regulations, standards and requirements contained in this Act and regulations made thereunder.

(6) The Authority may, for the purpose of assessing applications for the grant of a licence, authorise or approve persons for the purpose of determining that a person who wishes to apply for the grant of a licence complies with each of the standards established under this section.

(7) In making regulations under this section, the Authority may set different and separate requirements and conditions in relation to the licensing of persons and different categories of premises and different scale of activities.

(8) An application for a licence shall be subject to such fee as may be prescribed by the Authority.

(9) A person who fails to comply with or contravenes a regulation under this section is guilty of an offence.

Keeping of records.

33.—(1) The holder of a cultivation licence under this Act shall maintain clear and accurate records, on a per month basis, of -

- (a) quantity of seeds and seedlings in its possession or control,
- (b) the number of plants awaiting or undergoing cultivation,
- (c) quantity of the harvested stock on-hand,
- (d) quantity of cannabis harvested,
- (e) the number of plants transferred or sold along with details of the transferee or purchaser, and
- (d) any other details or records as may be prescribed by the Authority.

(2) The holder of a wholesale or retail licence under this Act shall maintain clear and accurate records, on a per-month basis, of -

- (a) the quantity of cannabis or cannabis-infused products sold,

- (b) the quantity of cannabis or cannabis-infused products held in stock,
- (c) any other details or records as may be prescribed by the Authority, and
- (d) in respect of a wholesaler, details of the transferee or purchaser.

(3) It shall be an offence for a person to contravene the terms of subsection (1) or (2).

Revocation of licence.

34.— (1) A judge of the District Court may, upon the application of the Authority, revoke a licence granted under this Act where—

- (a) in the opinion of the Court as evidenced by the Authority, the licensee has not complied with the principles and policies of this Act,
- (b) the licensee has been convicted of an offence under this Act,
- (c) in the opinion of the Court as evidenced by the Authority, the licence was obtained by fraud or misrepresentation,
- (d) in the opinion of the Court as evidenced by the Authority, the licence was granted by virtue of an administrative error, or
- (f) in the opinion of the Court as evidenced by the Authority, it is in the public interest to do so.

(2) An appeal against a decision of the District Court to revoke a licence granted under this Act may be made to the Circuit Court within 21 days of the date of the decision of the District Court.

(3) Where an appeal is made pursuant to subsection (2), the revocation of the licence concerned shall, subject to *subsection (4)*, not take effect until the review is determined (and the decision is confirmed on that review) or the submission of the decision for review is withdrawn.

(4) Where, in the opinion of the District Court, the circumstances concerning the revocation of a licence are such that, having regard to the public interest, it is appropriate that the decision to revoke the licence should take effect immediately and he or she states that opinion in the notification of the decision under *subsection (1)*, then the revocation shall take effect immediately on that notification.

Notice of intent to apply for revocation.

35.— Where the Authority decides to apply to the Court under section 34 seeking the revocation of a licence granted under this Act, the Authority shall notify in writing the holder of the licence of—

- (a) the intent to apply to Court seeking the revocation of a licence, and
- (b) the reasons for the making of the application.

PART 8

RESTRICTIONS ON PRODUCTS PERMISSIBLE DURING CULTIVATION

Prohibited additives in cultivation.

36.— It shall be an offence, during the course of cultivation of cannabis, to use or apply additives, growth agents, fertilisers, insecticides, pesticides and fungicides which have been prescribed by the Minister under this section as being prohibited.

Prohibited ingredients and additives in manufacture.

37.— It shall be an offence, during the course of the production of cannabis or cannabis-infused products to use alcohol, nicotine, caffeine or other ingredients or additives which have been prescribed by the Minister under this section as being prohibited.

PART 9

RESTRICTIONS ON SALE OF CANNABIS

Offence of sale to minors.

38.— It shall be an offence for the holder of a retail licence to sell cannabis or a cannabis-infused product to a child.

Per-transaction limit on quantity to be sold by retailers.

39.— (1) The maximum quantity of cannabis which may be sold by the holder of a licence held under section 18, 22, 23 or 24 in any one transaction shall be -

- (a) not greater than one ounce of cannabis, or
- (b) in respect of a cannabis-infused product, a quantity of cannabis which is not greater than one ounce.

(2) It shall be an offence for a person to contravene the terms of subsection (1).

Prohibition of presence of children on licensed premises.

40.— (1) (a) It shall be an offence for a the holder of a licence granted under Part 4 or Part 5 to permit a child to be on the licensed premises at any time.

(b) In this subsection, “licensed premises” does not include a residential premises in respect of which a licence has been granted under section 17.

(2) It shall be an offence for a the holder of a cultivation licence granted under section 17 to permit a child to enter the self-contained, locked space within the residential premises where cannabis is being cultivated.

Prohibition on retail sale by classes of licence holders.

41.— It shall be an offence for the holder of -

- (a) a licence for the Commercial Cultivation of Cannabis,
- (b) a licence for the Home Cultivation of Cannabis,
- (c) a licence for the Cannabis Social Club licence, or
- (d) a Cannabis Wholesale licence,

to sell cannabis or a cannabis-infused product to a member of the public.

Prohibited ingredients and additives in product on sale.

42.— (1) It shall be an offence to sell cannabis or cannabis-infused products which contain alcohol, nicotine or caffeine or any other prescribed ingredient or additive.

(2) It shall be an offence to sell cannabis or cannabis-infused products which contain ingredients or additives which have been prescribed by the Minister under this section as being prohibited ingredients.

(3) It shall be an offence to sell cannabis-infused products which fail to comply with the minimum and maximum permissible amounts of THC which have been prescribed by the Minister under this section.

(4) The Minister may make Regulations prescribing an additive or ingredient as being prohibited for the purposes of subsection (1).

(5) In this section “sell” includes the sale or transfer of cannabis or cannabis-infused products to members of a Cannabis Social Club.

PART 10

RESIDENCY REQUIREMENTS ON LICENSEES AND STAFF

Prevention of drug tourists – licensees and staff.

43.— (1) In order to be eligible to make an application for a licence under Part 4 or Part 5, the applicant shall be legally resident in the State in the two years preceding his or her application for a licence.

(2) In order to be eligible to be employed or engaged, with or without reward -
(a) by an entity involved in the Commercial Cultivation of Cannabis, or
(b) by a retailer of cannabis or cannabis-infused products,
the employee shall be legally resident in the State.

(3) In order to be eligible for membership of a Cannabis Social Club, a person shall be legally resident in the State.

(4) It shall be an offence for a licence-holder to contravene the requirements of subsection (2) or (3).

(5) In this section “employee” means a person who is engaged on a contract of service, or a contract of service or otherwise provides direct assistance and cognate terms shall be construed accordingly.

Prevention of drug tourists – sale of cannabis.

44.— (1) In order to be eligible to purchase cannabis or cannabis-infused products, the purchaser shall prove that he or she is -

(a) a citizen of the European Union evidenced by the production of a valid passport or other equivalent official identity document, or

(b) is legally resident in the State evidenced by the production of a valid immigration card.

(2) It shall be an offence for a licence holder to fail to observe the requirements of subsection (1).

Cultivation in public.

45.— It shall be an offence to cultivate cannabis in a public place or a place to which members of the public can easily gain access.

PART 11

LABELLING OF CANNABIS

Labelling requirements.

46.— (1) The Authority shall make regulations prescribing the information which must be clearly legible on the packaging of cannabis or cannabis-infused products which are presented for sale.

(2) Without prejudice to the generality of subsection (1), regulations made under subsection (1) which impose labelling requirements, may prescribe requirements in respect of -

(a) the net weight of the product,

(b) license number of the cultivator of the product,

- (c) licence number of the retailer of the product,
- (d) the strain of cannabis plant by reference to it as being a percentage of the product,
- (e) THC and CBD content by reference to it as being a percentage of the product,
- (f) a listing of all pesticides, herbicides, fungicides, and solvents that were used in its cultivation, processing or production,
- (g) warnings regarding the use of the product -
 - (i) during pregnancy,
 - (ii) prior to driving,
 - (iii) prior to operating machinery,
- (h) the fact that it is illegal for a person under 18 to possess the product,
- (i) date of production,
- (j) a use-by date,
- (k) in respect of cannabis, the place of cultivation or in respect of cannabis-infused products the place of production.

(3) Without prejudice to the generality of subsection (1), regulations made under subsection (1) which impose labelling requirements in respect of edible cannabis-infused products, may prescribe requirements in respect of -

- (a) the listing of ingredients,
- (b) level of cannabinoid content,
- (c) the nutrition content of the product, and
- (d) compatibility of the product with dietary practises (gluten-free, vegan, and other similar matters.).

(4) When making regulations in respect of the labelling of medicinal cannabis products, the Authority shall consult with the Irish Medicines Board and also the Institute.

(5) It shall be an offence for a person to contravene regulations made under this section.

Branding of products.

47.— (1) The packaging in which cannabis or a cannabis-infused product is placed in for sale or displayed for sale shall be plain packaging.

(2) The packaging in which cannabis or a cannabis-infused product is placed in for sale or displayed for sale -

- (a) shall not be branded with the producer's logo, colour scheme or other signifiers of the origin of the product,

(b) shall display in a conspicuous manner the product name, the producer's name, place of production, and ingredients.

(3) It shall be an offence for a producer, wholesaler or retailer to contravene the terms of subsection (1) or subsection (2).

(4) In this section "packaging" includes a packet, label or wrapping.

PART 12

ADVERTISING CANNABIS

Advertising.

48.— (1) The Authority shall make regulations concerning the advertising and marketing, including online advertising and marketing, of cannabis and cannabis-infused products.

(2) Without prejudice to the generality of subsection (1) regulations made under subsection (1) may prescribe requirements in respect of -

- (a) the content of advertisements of marketing materials,
- (b) the placing of advertising,
- (d) the distribution of leaflets,
- (e) sponsorship.

(3) It shall be an offence to advertise or market cannabis or cannabis-infused products at a sporting event.

(4) In subsection (3), "advertise or market" includes sponsorship.

(5) It shall be an offence for a person to contravene regulations made under this section.

Online advertising

49.— (1) A producer or retailer of cannabis or cannabis-infused products may establish a website which provides information and advertising for their products provided the website is primarily intended, and is designed to be accessed by, persons aged 18 years or older.

(2) A producer or retailer of cannabis or cannabis-infused products may initiate opt-in marketing campaigns, including newsletters, on internet and location-based devices provided an opt-out feature is easily visible and accessible to the user.

(3) A producer or retailer of cannabis or cannabis-infused products may commission or publish banner advertisements online provided such advertisements only feature on websites which are primarily intended to be accessed by persons aged 18 years or older.

(4) It shall be an offence for the producer or retailer of cannabis or cannabis-infused products

to commission or publish online pop-up advertisements for such products.

Print media advertising.

50.— (1) Advertising for the sale of cannabis or cannabis-infused products in print media may only be placed in an adult oriented magazine.

(2) It shall be an offence to publish or permit the publication of an advertisement for cannabis or cannabis-infused products in a newspaper.

(3) In this section “adult oriented magazine” means a magazine whose primary target readership is of persons aged 18 or older.

Exposure of children to advertising.

51.— It shall be an offence for a person to commission, publish or broadcast a mass-market advertising or marketing campaign in respect of cannabis or cannabis-infused products that are, on the basis of their content, timing, location or other factors, directed at children.

Advertising offences.

52.— It shall be an offence for a person to publish on a sign, label or advertisement concerning cannabis or a cannabis-infused product which -

- (a) is false or misleading in any material respect, or
- (b) is reckless as to whether such information or representation is false or misleading, or
- (c) is intended to deceive the consumer.

PART 13

OFFENCE – POSSESSION

Possession by a child.

53.— (1) It shall be an offence for a child to possess any quantity of cannabis or cannabis-infused product.

(2) A child who is guilty of an offence under subsection (1) -

- (a) on the first occasion, and
- (b) who at the time of the offence was in possession of less than one ounce of cannabis,

shall be liable to participation in a prescribed juvenile cannabis education course and at the discretion of the judge, attendance at a prescribed juvenile cannabis treatment facility.

(3) A child who is guilty of an offence under subsection (1) on a second or subsequent occasion, is liable to a term not exceeding three months detention at a prescribed juvenile detention facility.

Possession by an adult.

54.— (1) It shall be an offence for a person to be in possession of –

- (a) a quantity of cannabis which is greater than 1 ounce, or
- (b) a cannabis-infused product whose cannabis content is greater than 1 ounce.

(2) A person who is found to have been in possession of –

- (a) a quantity of cannabis which is greater than 1 ounce but does not exceed 2 ounce, or
- (b) a quantity of cannabis-infused product whose cannabis content is greater than 1 ounce but does not exceed 2 ounce,

shall be liable –

- (i) on summary conviction for a first offence, to a class E fine, or
- (ii) on summary conviction for a second and subsequent offence, to a class D fine or to imprisonment for a term not exceeding one month, or both.

(3) A person who is found to have been in possession of –

- (a) a quantity of cannabis which is greater than 2 ounce but does not exceed 5 ounce, or
- (b) a quantity of cannabis-infused product whose cannabis content is greater than 2 ounce but does not exceed 5 ounce,

shall be liable on summary conviction to a class C fine or to imprisonment for a term not exceeding three months, or both.

(4) A person who is found to have been in possession of –

- (a) a quantity of cannabis which is greater than 5 ounce but does not exceed 20 ounce, or
- (b) a quantity of cannabis-infused product whose cannabis content is greater than 5 ounce but does not exceed 20 ounce,

shall be liable on summary conviction to a class A fine or to imprisonment for a term not exceeding twelve months, or both.

(5) A person who is found to have been in possession of –

(a) a quantity of cannabis which is greater than 20 ounce, or

(b) a quantity of cannabis-infused product whose cannabis content is greater than 20 ounce,

shall be liable on conviction on indictment, to a fine not exceeding €500,000 or imprisonment for a term not exceeding 10 years, or both.

(6) In any proceedings for an offence under this section, where—

(a) it is proved that a person is the holder of a licence granted under sections 16, 18, 21, 22, 23 or 24 of this Act,

(b) the court, having regard to the –

(i) quantity of the cannabis or cannabis-infused product which the person possessed,

(ii) the context, including completed documentation accompanying the items, or

(iii) to such other matters that the court considers relevant,

shall presume, until the court is satisfied to the contrary, that he or she has been in possession of the cannabis or cannabis-infused product during the course of trade for an activity which is licensed under this Act.

PART 14

OFFENCES AND PENALTIES

Act does not legitimise unlawful or unlicensed activity.

55.— Nothing contained in this Act shall be construed as permitting the unlicensed or otherwise unlawful cultivation, sale, import, export, transportation or possession of cannabis or cannabis-infused products.

Offence to use cannabis in certain settings.

56.— It shall be an offence for a person to consume or otherwise be under the influence of cannabis on premises which has been prescribed by the Minister for the purpose of this section.

Offences.

57.— (1) A person who commits an offence under sections 8, 17, 21, 22, 23, 24, 25, 26, 27, 32, 33, 40, 43, 44, 45, 46, 47, 48, 49, 50, 51, or 52 shall be liable—

(a) on summary conviction to a class C fine or to imprisonment for a term not exceeding 3 months or both, or

(b) on conviction on indictment to a fine not exceeding €250,000 or to imprisonment for a term not exceeding 5 years or both.

(2) A person who commits an offence under sections 14, 16, 18, 19, 25, 28, 36, 37, 38, 39, 41 or 42 shall be liable—

(a) on summary conviction to a class A fine or to imprisonment for a term not exceeding 12 months or both, or

(b) on conviction on indictment to a fine not exceeding €500,000 or to imprisonment for a term not exceeding 10 years or both.

(3) Proceedings for an offence under this Act may be brought and prosecuted summarily by—

(a) the Authority, or

(b) a member of the Garda Síochána.

Offence by body corporate.

58.— (1) Where an offence has been committed by a body corporate and it is proved that the offence was committed with the consent or connivance, or was attributable to any wilful neglect, of a person who, when the offence was committed, was a director, manager, secretary or other officer of the body corporate, or a person purporting to act in that capacity, that person, as well as the body corporate, is guilty of an offence and may be proceeded against and punished as if he or she were guilty of the first-mentioned offence.

(2) Where the affairs of a body corporate are managed by its members, *subsection (1)* applies in relation to the acts and defaults of a member in connection with his or her functions of management as if he or she were a director or manager of the body corporate.

PART 15

RINGFENCING AND REPORTING OF REVENUE

Funding of Authority.

59.—(1) The fees imposed by the Authority under this Act in respect of the licensing of the cultivation, sale (retail and wholesale) of cannabis shall, subject to this section, accrue to the Authority.

(2) Income from fees received by the Authority shall be applied for the purpose of meeting the expenses properly incurred by the Authority in the discharge of its functions under this Act.

(3) Income generated by the payments referred to in *subsection (1)* that is surplus to the income necessary to meet the demands established in *subsection (2)*, shall be disposed of in a manner determined by the Authority with the agreement of the Minister for Finance.

Ringfencing of Revenue Generated.

60.— All tax revenue which is generated from the cultivation and sale of cannabis (retail or wholesale) or cannabis-infused products shall be used exclusively for funding—

(a) drug addiction services,

(b) medical research concerning the use of cannabis,

(c) juvenile education courses on drug abuse.

Report of Revenue Generated from Sale.

61.— (1) Upon the expiration of the first calendar year of the operation of this Act and annually thereafter, the Revenue Commissioners shall, not later than 31 January, submit a report to the Authority and also to the Minister for Finance setting out the amount of revenue generated from -

- (a) the sale of cannabis and cannabis-infused products, and
- (b) the sale of medicinal-use cannabis.

(2) The Revenue Commissioners shall have all such powers as are necessary for the gathering of information which it deems necessary for the purpose of fulfilling its obligations under subsection (1).

(3) A report which is prepared under this section may be published by the Authority, including on the internet.

Report of Revenue Generated from Licensing.

62.— (1) Upon the expiration of the first calendar year of the operation of this Act and annually thereafter, the Authority shall, not later than 31 January, submit a report to the Minister for Finance setting out the amount of revenue generated from -

- (a) licensing the cultivation of cannabis, and
- (b) licensing the sale of cannabis and cannabis-infused products.

(2) A report which is prepared under this section may be published by the Authority, including on the internet.

Revenue raising measures for Minister.

63.— The Minister shall, in conjunction with the Minister for Finance examine and lay a report before both Houses of the Oireachtas on the means to be adopted for the imposition of excise and other taxes upon the commercial cultivation and retail of cannabis and cannabis-infused products.

PART 16

MISCELLANEOUS

Disposal and destruction of unsaleable goods.

64.— The Authority shall in conjunction with the Minister for the Environment, Community and

Local Government and also the Minister for Health develop a mechanism to track, measure, and properly destroy -

- (a) cannabis and cannabis-infused products that cannot be legally sold, and
- (b) cannabis waste material.

Assessment of regulation of hemp.

65.— The Minister for Agriculture shall, within 12 months of the commencement of this section, submit to the Authority and also the Minister for Justice a report which examines the feasibility of the safe regulation and controlled use of hemp.

Review of legislation and regulatory regime.

66.— (1) The Minister shall within 12 months of the commencement of this section and annually thereafter publish a review of the operation of this Act and any instruments made thereunder.

(2) A report which has been prepared under subsection (1) shall give consideration to -

- (a) the efficacy of the overall approach to the regulation of the use of cannabis and cannabis-infused products,
- (b) the operation of all key aspects of the Act, and

shall indicate whether amendments of the Act are desired or are necessary.

(3) In preparing a report under subsection (1), the Minister shall -

- (a) consult with the Authority,
- (b) consult with organisations concerned with the use of cannabis,
- (c) have regard to statistics concerning the use of cannabis,
- (d) have regard to social developments concerning the use of cannabis,
- (e) have regard to legislative regimes in other jurisdictions concerning the regulation of the recreational and medicinal use of cannabis.

(4) A report which has been prepared under subsection (1) shall be laid before each House of the Oireachtas.

PART 17

AMENDMENT OF EXISTING ENACTMENTS

Amendment of Misuse of Drugs Act 1977.

67.— (1) The Misuse of Drugs Act 1977 is amended in section 1 by deleting the definition of “cannabis”.

(2) The Misuse of Drugs Act 1977 is amended in section 17 by deleting both occurrences of “or a plant of the genus Cannabis”.

(3) The Misuse of Drugs Act 1977 is amended in section 26 (aa) by deleting “a plant of the genus Cannabis”.

(4) The Misuse of Drugs Act 1977 is amended in the Schedule by deleting the following -

“Cannabinol, except where contained in cannabis or cannabis resin.
Cannabinol derivatives.
Cannabis and cannabis resin.”.

Amendment of Statutory Instruments.

68.— (1) The Extradition Act, 1965 (Application of Part II) Order 2000 (SI No 474 of 2000) is amended in –

- (a) Article 1 by deleting the definition of “cannabis plant”;
- (b) Article 3 by deleting “or cannabis plant”;
- (c) Article 14 by deleting “and cannabis plants”.

(2) The Misuse of Drugs (Designation) Order 1998 (SI No 69 of 1998) is amended in the Schedule by deleting the following –

“Cannabinol, except where contained in cannabis or cannabis resin.
Cannabinol derivatives.
Cannabis and cannabis resin.”

Driving under the influence of cannabis.

69.— The Road Traffic Act 2010 is amended by inserting the following after section 4:

“Driving under the influence of cannabis.

4A. — (1) A person shall not drive or attempt to drive a mechanically propelled vehicle in a public place while he or she is under the influence of cannabis to such an extent as

to be incapable of having proper control of the vehicle.

(2) A person shall not drive or attempt to drive a mechanically propelled vehicle in a public place while there is present in his or her body a quantity of cannabis such that, within 3 hours after so driving or attempting to drive, the concentration of cannabis in his or her blood will exceed a concentration of—

(a) 5 nanograms of cannabis per 1 millilitre of blood, or

(b) in case the person is a specified person, 3 nanograms of cannabis per 1 millilitre of blood.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

(4) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.

(5) A member of the Garda Síochána may arrest without warrant a person who in the member's opinion is committing or has committed an offence under this section.

Attempting to drive under the influence of cannabis.

70.— The Road Traffic Act 2010 is amended by inserting the following after section 5:

“Attempting to drive under the influence of cannabis.

5A. — (1) A person commits an offence if, when in charge of a mechanically propelled vehicle in a public place with intent to drive or attempt to drive the vehicle (but not driving or attempting to drive it), he or she is under the influence of cannabis to such an extent as to be incapable of having proper control of the vehicle.

(2) A person commits an offence if, when in charge of a mechanically propelled vehicle in a public place with intent to drive or attempt to drive the vehicle (but not driving or attempting to drive it), there is present in his or her body a quantity of cannabis such that, within 3 hours after so being in charge, the concentration of cannabis in his or her blood will exceed a concentration of—

(a) 5 nanograms of cannabis per 1 millilitre of blood, or

(b) in case the person is a specified person, 3 nanograms of cannabis per 1 millilitre of blood.

(3) A person who contravenes this section commits an offence and is liable on summary conviction to a fine not exceeding €5,000 or to imprisonment for a term not exceeding 6 months or to both.

(4) In a prosecution for an offence under this section it shall be presumed that the defendant intended to drive or attempt to drive the vehicle concerned until he or she shows the contrary.

(5) Section 1(1) of the Probation of Offenders Act 1907 does not apply to an offence under this section.”.

Extension of the workplace smoking ban.

71.— (1) The Public Health (Tobacco) Act 2002 is amended -

(a) in subsection (1) of section 47 by substituting “tobacco products and cannabis products”, and

(a) in subsection (6) of section 47 by inserting the following definition before the definition of “college” -

“cannabis products’ means a cigarette or other item which is intended to be combustible and which contains any element of cannabis;”.

(2A) The Public Health (Tobacco) Act 2002 is amended in section 47 by inserting the following after subsection (5):

“(5A) Regulations made under this section shall not preclude the smoking of cannabis or cannabis-infused products on premises which have been licensed under sections 18 or 24 of the Cannabis Regulation Act 2013.”.

Schedule

Cannabis Regulation Authority

Director of Authority.

1.(1) Subject to *subparagraph (2)*, the Authority shall from time to time appoint a Director of the Authority in a whole-time capacity.

(2) The Director shall be appointed in accordance with procedures determined by the Authority subject to the consent of the Minister.

(3) The Director shall carry on and manage, and control generally, the administration and business of the Authority and shall perform such other functions as may be determined by the Authority.

Staff of Authority.

2. (1) Subject to the consent of the Minister and the Minister for Finance, the Authority may, from time to time, appoint such and so many persons to be employees of the Authority as the Authority may determine.

(2) Subject to such conditions as it thinks fit, the Authority may delegate to the Director any of the functions of the Authority in relation to the appointment of employees and the determination of selection procedures.

(3) Except as otherwise provided by this Act, an employee of the Authority shall be employed on such terms and conditions as the Director, with the consent of the Minister and the Minister for Finance, may from time to time determine.

(4) Except as otherwise provided by this Act, the Authority shall pay to its employees such remuneration, fees and allowances for expenses as the Authority, with the consent of the Minister and the Minister for Finance, may from time to time determine.

Remuneration of staff.

3. The Authority, in determining the remuneration or allowances for expenses to be paid to members of its staff or the other terms or conditions subject to which such members hold or are to hold their employment, shall comply with the Government or national agreed guidelines which are for the time being extant or to Government policy concerning remuneration and conditions of employment which is so extant and, in addition to the foregoing, the Authority shall comply with any directions with regard to such remuneration, allowances, terms or conditions which the Minister with the agreement of the Minister for Finance may give.

Superannuation of staff.

4. (1) The Authority shall prepare and submit to the Minister a scheme or schemes for the granting of superannuation benefits to or in respect of members of staff as it may think fit.
- (2) Every such scheme shall fix the time and conditions of retirement for all persons to or in respect of whom superannuation benefits are payable under the scheme or schemes and different times and conditions may be fixed in respect of different classes of persons.
- (3) Every such scheme may be amended or revoked by a subsequent scheme prepared, submitted and approved under this paragraph.
- (4) A scheme submitted to the Minister under this paragraph shall, if approved of by the Minister with the agreement of the Minister for Finance, be carried out by the Authority in accordance with its terms.
- (5) If any dispute arises as to the claim of any person to, or the amount of, any superannuation benefit payable in pursuance of a scheme or schemes under this paragraph, such dispute shall be submitted to the Pensions Ombudsman, whose decision shall be final.
- (6) No superannuation benefits shall be granted by the Authority nor shall any arrangements be entered into by the Authority for the provision of such benefit to a member of the staff of the Authority, otherwise than in accordance with a scheme under this paragraph, or otherwise as may be approved of by the Minister with the agreement of the Minister for Finance.
- (7) A scheme under this paragraph shall, as respects a member of staff who has been transferred from a Department of State or public body, provide for the granting to or in respect of him or her of superannuation benefits upon and subject to terms and conditions that are not less favourable to him or her than the terms and conditions applied to him or her immediately before the establishment day in relation to the grant of such benefits.
- (8) Where, in the period beginning on the establishment day and ending immediately before the commencement of a scheme under this paragraph, a superannuation benefit falls due for payment to or in respect of a person who was transferred to the staff of the Authority, the benefit shall be calculated by the Authority in accordance with such scheme, or such enactments in relation to superannuation, as applied to the person immediately before the establishment day or such day as may be specified by the Minister and, for that purpose, his or her pensionable service with the Authority shall be aggregated with his or her previous pensionable service and shall be paid by the Authority.
- (9) A scheme under this paragraph shall be laid before each House of the Oireachtas by the Minister, as soon as may be after it is made and, if a resolution annulling the scheme is passed by either such House within the next 21 days on which that House has sat after the scheme is laid before it, the scheme shall be annulled accordingly, but without prejudice to the validity of anything previously done thereunder.

Membership of Houses of Oireachtas and European Parliament.

5. (1) Where a member of the Board—

(a) is nominated as a member of Seanad Éireann,
(b) is elected as a member of either House of the Oireachtas or to the European Parliament,
(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, or
(d) becomes a member of a local authority, he or she shall thereupon cease to be a member of the Board.

(2) Where a person employed by the Authority—

(a) is nominated as a member of Seanad Éireann,
(b) is elected as a member of either House of the Oireachtas or to the European Parliament, or
(c) is regarded pursuant to Part XIII of the Second Schedule to the European Parliament Elections Act 1997, as having been elected to the European Parliament to fill a vacancy, he or she shall thereupon stand seconded from his or her employment by the Authority and shall not be paid by, or be entitled to receive from, the Authority remuneration or allowances in respect of the period commencing on such nomination or election, or when he or she is regarded as having been elected, as the case may be, and ending when he or she ceases to be a member of either House or such Parliament.

(3) A person who is, for the time being, entitled under the Standing Orders of either House of the Oireachtas to sit therein or who is a member of the European Parliament shall, while he or she is so entitled or is such a member, be disqualified from becoming a member of the Board, or a member of the staff, of the Authority.

(4) A person who is a member of a local authority shall be disqualified from becoming a member of the Board.

(5) The Authority shall not employ or otherwise retain in any capacity a person who would otherwise be disqualified under this paragraph from becoming a member of the Board, or a member of the staff, of the Authority, save with the approval of the Minister.

(6) Without prejudice to the generality of *subparagraph (2)*, that subparagraph shall be construed as prohibiting, among other things, the reckoning of a period mentioned in that subparagraph as service with the Authority for the purposes of any superannuation benefits.

Accounts.

6. (1) The Authority shall keep all proper and usual accounts and records of—

- (a) all moneys received or expended by it and the sources of such income and the subject matter of such expenditure, and
- (b) all property, assets and liabilities of the Authority.

(2) Accounts kept in accordance with *subparagraph (1)* shall be audited at least once in each year by an auditor appointed for that purpose by the Minister and the auditor's fees and the expenses generally of the audit shall be paid by the Authority as soon as practicable after the audit.

(3) As soon as practicable after each audit the Authority shall provide a copy of the accounts and the auditor's certificate and report thereon to the Minister and shall cause copies of same

to be printed, published and offered for sale, and immediately after publication a copy of the accounts and the auditor's certificate and report thereon shall be laid before each House of the Oireachtas.

Borrowings.

7. The Authority may, for the purpose of providing for current or capital expenditure, from time to time, borrow money (whether on the security of the assets of the Authority or otherwise), including money in a currency other than the currency of the State, subject to the consent of the Minister and the Minister for Finance and to such conditions as they may specify.

Advances.

8. The Minister may, from time to time, for 2 years after the establishment day, with the consent of the Minister for Finance, advance to the Authority out of moneys provided by the Oireachtas, such sums as the Minister may determine for the purpose of expenditure by the Authority in the performance of its functions.

Expenses.

9. (1) All expenses incurred by the Authority shall be defrayed by the Authority out of funds at its disposal.

(2) The expenses incurred by the Minister in the administration of this Act shall, to such extent as may be sanctioned by the Minister for Finance, be paid out of moneys provided by the Oireachtas.

Fees.

10. (1) The Authority may charge, receive and recover such fees as the Authority may from time to time prescribe, subject to the consent of the Minister, in relation to the performance by the Authority of its functions, the provision by it of services (other than a service consisting of the provision of advice to the Minister or another Minister of the Government) and the carrying on by it of activities.

(2) Without prejudice to the generality of *subparagraph (1)*, the Authority may charge fees in respect of all or any of the following:

- (a) registration or the renewal of registration under Part 4 or Part 5;
- (b) any other service which the Authority may, from time to time, provide.

(3) The Authority may recover as a simple contract debt in any court of competent jurisdiction, from any person by whom it is payable, any amount due and owing to it under *subparagraph (1)*.

Annual Report.

11. (1) As soon as may be after the end of each financial year of the Authority, but not later than 6 months thereafter, the Authority shall make a report to the Minister of its activities during that year and the Minister shall cause copies of such report to be laid before each

House of the Oireachtas.

(2) Each report under *subparagraph (1)* shall include information in such form and regarding such matters as the Minister may direct.

Accountability to Houses of the Oireachtas.

12. (1) The chairperson of the Authority or, where there is no chairperson, a member of the Board, shall, whenever required by a Committee of Dáil Éireann established under the Standing Orders of Dáil Éireann to examine and report to Dáil Éireann on the appropriation accounts and reports of the Comptroller and Auditor General, give evidence to that Committee on—

(a) the regularity and propriety of the transactions recorded or required to be recorded in any book or other record of account subject to audit by the Comptroller and Auditor General which the Authority is required by or under statute to prepare,

(b) the economy and efficiency of the Authority in the use of its resources,

(c) the systems, procedures and practices employed by the Authority for the purpose of evaluating the effectiveness of its operations, and

(d) any matter affecting the Authority referred to in a special report of the Comptroller and Auditor General under section 11(2) of the Comptroller and Auditor General (Amendment) Act 1993 or in any other report of the Comptroller and Auditor General (in so far as it relates to a matter specified in *paragraph (a), (b) or (c)*) that is laid before Dáil Éireann.

(2) From time to time, and whenever so requested, the Authority shall account for the performance of its functions to a Committee of one or both Houses of the Oireachtas.